

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DeSHAWN ST. CLAIR,)
)
)
Plaintiff,)
)
)
v.) No. 4:19-CV-393 RWS
)
)
EXPERIAN,)
)
)
Defendant.)

MEMORANDUM AND ORDER

Plaintiff seeks leave to proceed in forma pauperis in this civil action under 28 U.S.C. § 1915. Plaintiff's motion to proceed in forma pauperis will be granted. However, plaintiff will be required to file an amended complaint in this action. Plaintiff's failure to file an amended pleading will result in a dismissal of this action, without prejudice.

Standard of Review

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief, a complaint must plead more than “legal conclusions” and “[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a “mere possibility of misconduct.” *Id.* at 679. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* at 678. Determining whether a complaint states a plausible claim for relief is a

context-specific task that requires the reviewing court to draw on its judicial experience and common sense. *Id.* at 679.

When reviewing a complaint under 28 U.S.C. § 1915(e), the Court accepts the well-pled facts as true. Furthermore, the Court liberally construes the allegations.

The Complaint

Plaintiff DeShawn St. Clair asserts that he is bringing this action against Experian, under 15 U.S.C. § 1681, which is a credit reporting agency plaintiff believes is based in Illinois. He claims that his “credit was damaged over the past few months from Experian’s failure to comply with the FCRA [Fair Credit Reporting Act].” Plaintiff asserts that this caused him emotional distress because he was unable to purchase a vehicle or a new home.

Plaintiff seeks punitive damages and emotional damages against defendant for “not responding after the first 30 days.”

Discussion

The Court is unclear as to exactly what claim plaintiff is bringing against Experian under the Fair Credit Reporting Act, 15 U.S.C. § 1681. To the extent plaintiff is asserting that defendant Experian reported inaccurate information on his credit report and failed to properly investigate and then fix the information once he reported the inaccuracy, he has not properly alleged such a claim. Thus, the Court will give him time to amend his complaint to properly set forth his allegations.¹

¹To establish a *prima facie* case of a violation of § 1681 e(b), plaintiff must demonstrate 1) there was inaccurate information in plaintiff's consumer credit report; 2) the inaccuracy is due to defendant's failure to follow reasonable procedures to ensure maximum accuracy; 3) plaintiff suffered injury; and 4) plaintiff's injury was caused by the inclusion of the inaccurate entry. *Philbin v. Trans Union Corp.*, 101 F.3d 957, 963 (3d Cir.1996). Courts have emphatically held that the FCRA does not impose strict liability on credit reporting agencies. *Hauser v. Equifax, Inc.*, 602 F.2d 811, 814 (8th Cir.1979).

The Court will allow plaintiff thirty (30) days to amend his complaint in this action on a court-provided form. Plaintiff is warned that the filing of an amended complaint replaces the original complaint, and so it must include all claims plaintiff wishes to bring. *E.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005). Plaintiff must submit the amended complaint on a court-provided form, and the amended complaint must comply with Rules 8 and 10 of the Federal Rules of Civil Procedure.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [Doc. #3] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall provide plaintiff with a court-form for filing a non-prisoner civil action.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint on the court-form within thirty (30) days of the date of this Memorandum and Order.

IT IS FURTHER ORDERED that plaintiff's failure to comply with this Memorandum and Order will result in a dismissal of this action without prejudice.

Dated this 6th day of March, 2019.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE